

§ 23.55

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longer than 3 years from the issuance date.

(c) *Extension of validity.* The validity of a CITES document may not be ex-

tended beyond the expiration date on the face of the document, except under limited circumstances for certain timber species as outlined in §23.73.

§ 23.55 How may I use a CITES specimen after import into the United States?

In addition to the provisions in §23.3, you may only use CITES specimens after import into the United States for the following purposes:

If the species is listed in	Allowed use within the United States
(a) Appendix I, except for specimens imported with a CITES exemption document listed in paragraph (d) of this section. (b) Appendix II with an annotation for noncommercial purposes where other specimens of that species are treated as if listed in Appendix I. (c) Appendix II without an annotation for noncommercial purposes, or Appendix III, and threatened under the ESA, except as provided in a special rule in §§ 17.40 through 17.48 or under a permit granted under §§ 17.32 or 17.52	The specimen may be used only for noncommercial purposes (see § 23.5). <i>Exception:</i> If the specimen was lawfully imported, with no restrictions on its use after import, before the species was listed as described in paragraphs (a), (b), or (c) of this section, you may continue to use the specimen as indicated for paragraphs (d), (e) and (f) of this section provided you can clearly demonstrate (using written records or other documentary evidence) that your specimen was imported prior to the CITES listing, with no restrictions on its use after import. If you are unable to clearly demonstrate that this exception applies, the specimen may be used only for noncommercial purposes.
(d) Appendix I, and imported with a CITES exemption document as follows: (1) U.S.-issued certificate for personally owned wildlife. (2) Pre-Convention certificate. (3) Export permit or re-export certificate for wildlife from a registered commercial breeding operation. (4) Export permit or re-export certificate for a plant from a registered nursery or under a permit with a source code of "D." (5) Certificate for artificially propagated plants with a source code of "A" for artificially propagated hybrid specimens derived from one or more unannotated Appendix-I species or other taxa. (6) U.S.-issued traveling-exhibition certificate. (e) Appendix II, other than those in paragraphs (b) and (c) of this section. (f) Appendix III, other than those in paragraph (c) of this section.	The specimen may be used for any lawful purpose, except if the regulations in this part or other parts of this subchapter or a permit condition allowed the import only for noncommercial purposes, then the import and subsequent use must be only for noncommercial purposes.

[72 FR 48448, Aug. 23, 2007, as amended at 79 FR 30426, May 27, 2014]

§ 23.56 What U.S. CITES document conditions do I need to follow?

(a) *General conditions.* The following general conditions apply to all U.S. CITES documents:

(1) You must comply with the provisions of part 13 of this subchapter as conditions of the document, as well as other applicable regulations in this subchapter, including, but not limited to, any that require permits. You must comply with all applicable local, State, Federal, tribal, and foreign wildlife or plant conservation laws.

(2) For export and re-export of live wildlife and plants, transport conditions must comply with the *International Air Transport Association Live*

Animals Regulations (for animals) or the *International Air Transport Association Perishable Cargo Regulations* (for plants) (incorporated by reference, see §23.9).

(3) You must return the original CITES document to the issuing office if you do not use it, it expires, or you request renewal or amendment.

(4) When appropriate, a Management Authority may require that you identify Appendix-II and -III wildlife or plants with a mark. All live Appendix-I wildlife must be securely marked or uniquely identified. Such mark or identification must be made in a way that the border official can verify that the specimen and CITES document correspond. If a microchip is used, we

may, if necessary, ask the importer, exporter, or re-exporter to have equipment on hand to read the microchip at the time of import, export, or re-export.

(b) *Standard conditions.* You must comply with the standard conditions provided in this part for specific types of CITES documents.

(c) *Special conditions.* We may place special conditions on a CITES document based on the needs of the species or the proposed activity. You must comply with any special conditions contained in or attached to a CITES document.

[72 FR 48448, Aug. 23, 2007, as amended at 79 FR 30426, May 27, 2014]

Subpart D—Factors Considered in Making Certain Findings

§ 23.60 What factors are considered in making a legal acquisition finding?

(a) *Purpose.* Articles III, IV, and V of the Treaty require a Management Authority to make a legal acquisition finding before issuing export permits and re-export certificates. The Parties have agreed that a legal acquisition finding must also be made before issuing certain CITES exemption documents.

(b) *Types of legal acquisition.* Legal acquisition refers to whether the specimen and its parental stock were:

(1) Obtained in accordance with the provisions of national laws for the protection of wildlife and plants. In the United States, these laws include all applicable local, State, Federal, tribal, and foreign laws; and

(2) If previously traded, traded internationally in accordance with the provisions of CITES.

(c) *How we make our findings.* We make a finding that a specimen was legally acquired in the following way:

(1) The applicant must provide sufficient information (see § 23.34) for us to make a legal acquisition finding.

(2) We make this finding after considering all available information.

(3) The amount of information we need to make the finding is based on our review of general factors described in paragraph (d) of this section and additional specific factors described in

paragraphs (e) through (k) of this section.

(4) As necessary, we consult with foreign Management and Scientific Authorities, the CITES Secretariat, State conservation agencies, Tribes, FWS Law Enforcement, APHIS or CBP, and other appropriate experts.

(d) *Risk assessment.* We review the general factors listed in this paragraph and additional specific factors in paragraphs (e) through (k) of this section to assess the level of scrutiny and amount of information we need to make a finding of legal acquisition. We give less scrutiny and require less-detailed information when there is a low risk that specimens to be exported or re-exported were not legally acquired, and give more scrutiny and require more detailed information when the proposed activity poses greater risk. We consider the cumulative risks, recognizing that each aspect of the international trade has a continuum of risk from high to low associated with it as follows:

(1) *Status of the species:* From Appendix I to Appendix III.

(2) *Origin of the specimen:* From wild-collected to born or propagated in a controlled environment to bred in captivity or artificially propagated.

(3) *Source of the propagule used to grow the plant:* From documentation that the plant was grown from a non-exempt seed or seedling to documentation that the plant was grown from an exempt seed or seedling.

(4) *Origin of the species:* From species native to the United States or its bordering countries of Mexico or Canada to nonnative species from other countries.

(5) *Volume of illegal trade:* From high to low occurrence of illegal trade.

(6) *Type of trade:* From commercial to noncommercial.

(7) *Trade by range countries:* From range countries that do not allow commercial export, or allow only limited noncommercial export of the species, to range countries that allow commercial export in high volumes.

(8) *Occurrence of the species in a controlled environment in the United States:* From uncommon to common in a controlled environment in the United States.